



IT IS ORDERED

Date Entered on Docket: February 5, 2019

The Honorable David T. Thuma
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO

IN RE:

Dorothy Marie Byrd,
Debtor.

Case No. 18-11852-t7

STIPULATED AND DEFAULT ORDER RESOLVING MOTION FOR RELIEF FROM STAY AND
TO ABANDON PROPERTY LOCATED AT 10516 TOWNER AVE NE, ALBUQUERQUE, NEW
MEXICO 87112

This matter came before the Court on the Motion for Relief from Stay and to Abandon Property located at 10516 Towner Ave NE, Albuquerque, New Mexico 87112 filed on October 9, 2018 (Doc. No. 24) (the "Motion") by Wells Fargo Bank, N.A., ("Movant"). The Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

(a) On October 9, 2018, Movant served the Motion and a notice of the Motion (the "Notice") on counsel of record for the Debtor and the case trustee (the "Trustee") by use of the Court's case management and electronic filing system for the transmission of notices, as

authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on the Debtor by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

(b) The Motion relates to the following property:

LOT NUMBERED SEVENTEEN (17) IN BLOCK NUMBERED ONE HUNDRED ELEVEN (111) OF SNOW HEIGHTS, AN ADDITION TO THE CITY OF ALBUQUERQUE, NEW MEXICO AS THE SAME IS SHOWN AND DESIGNATED ON THE PLAT THEREOF FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO ON DECEMBER 31,1953, IN PLAT BOOK D1, FOLIO 112-113.

PA: 10516 Towner Ave NE, Albuquerque, New Mexico 87112 ("Property").

(c) The Notice specified an objection deadline of 21 days from the date of service of the Notice;

(d) The Notice was sufficient in form and content;

(e) The objection deadline expired on October 30, 2018;

(f) The Trustee, appearing on his own behalf, filed an Objection to Wells Fargo Bank, N.A.'s Motion for Relief from Stay and to Abandon Property located at 10516 Towner Avenue NE, Albuquerque, NM 87112 on October 22, 2018 (Doc. No. 30), which objection has been resolved through entry of this order. As of January 23, 2019, neither the Debtor, nor Debtor's counsel, nor any other party in interest, filed an objection to the Motion;

(g) The Motion is well taken and should be granted as provided herein.

(h) By submitting this Order to the Court for entry, the undersigned counsel for Movant certifies, under penalty of perjury that, on January 23, 2019, a search of the data banks of the Department of Defense Manpower Data Center ("DMDC"), was made, and it was found that the DMDC does not possess any information indicating that the Debtor is currently on active military duty of the United States.

IT IS THEREFORE ORDERED:

1. The Chapter 7 Trustee is permitted to market and sell the Property, or take such other action which pays off or satisfies Movant's lien, on or before April 5, 2019. In the event the Trustee fails to sell the property or take such other action which pays off or satisfies Movant's lien on or before April 5, 2019 ("Payoff"), the Movant shall be entitled to an automatic entry of an order terminating the automatic stay and abandoning the property, upon the filing of an affidavit which states the Payoff did not occur, without further notice to the Trustee, the Debtor and/or her attorney, and without further hearing.

2. The Order Modifying Automatic Stay and Abandoning Property shall:

A. Permit the Movant to proceed with appropriate in rem foreclosure action, including the transmittal of any default letter required by the loan documents.

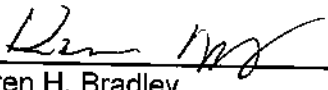
B. Provide that the approval of the Trustee to this Order is deemed to have abandoned the Property from the estate pursuant to 11 U.S.C. §554 as of the date of entry of this Order, and the Property therefore no longer is property of the estate. As a result, Movant need not name the Trustee as a defendant in any state court action it may pursue to foreclosure liens against the Property and need not notify the Trustee of any sale of the Property.

C. Provide that the fourteen (14) day stay requirement of F.R.B.P. 4001(a)(3) is waived.

###END of ORDER ###

SUBMITTED BY:

TIFFANY & BOSCO, P.A.

By 
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APPROVED BY:

Approved via e-mail 2/1/2019
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